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19/42 **File No.** Cr. P.C. II/42

K

Legal **DEPARTMENT**

B **BRANCH**

P 24(E)

Subject.—

Rules and Notification under the Code of Criminal Procedure 1898

File No. Cr. P.C II/42

Std. Sectt. Slip 24 B c.

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HMP.

Office of the R.L.A.

A revised draft notification is sent herewith.

Sd. S.B.Palekar,

for Remembrancer of Legal Affairs.

U.R.to H.D.,No.245, dated the 10th January 1942.

MRP.
4/5/56.

NOTIFICATION.

Home Department,

Bombay Castle, 1942.

The Code of Criminal Procedure, 1898.

No.5460/4.— In exercise of the powers conferred by sub-section (1) of section 8 of the Code of Criminal Procedure, 1898 (V of 1898), and in supersession of Government Notication in the Judicial Department No. 3716, dated the 19th July 1904, the Government of Bombay is pleased to divide the District of Sholapur into three sub-divisions specified in column 1 of the Schedule hereto annexed and to direct that the limits of these sub-divisions shall be those respectively shown against them in column 2 of the said Schedule.

Schedule.

No. of sub-division.	Limits.
1.	The municipal or borough of Sholapur.
2.	The talukas of Sholapur (excluding the area within the limits of the municipal borough of Sholapur) and Barsi.
3.	The talukas of Pandharpur, Sangola, Malsiras, Karmala and Madha.

By order of the Governor of Bombay,

Secretary to Government.

MRP.
4/5/56.

NOTIFICATION.

Home Department.
Bombay Castle, March 1932.

The Code of Criminal Procedure, 1898.

No. .- In exercise of the powers conferred by Clause (a) of Sub-section (1) of Section 4 of the Code of Criminal Procedure, 1898 (V of 1898) and in modification of Government Notification in the Home Department, No.3729, date the 16th October 1928, in so far as it relates to the Nasik Road Police Station and Government Notification in the Judicial Department, No.309, dated the 17th January 1917, in so far as it relates to the Camp Deolali Police Station of the Nasik Taluka, the Government of Bombay is pleased to direct that the two villages of (1) Lahvit (shown as Dahvit) and (2) Loho Shingva which were heretofore included within the limits of Nasik Road Police Station shall be excluded therefrom and be included within the limits of Camp Deolali Police Station of the Nasik Taluka in the Nasik District.

By order of the Governor of Bombay,

Secretary to Government,
Home Department.

HRP.
4/5/32.

Office of the R.L.A.

The draft notification on page 43, as slightly amended, is in order.

Sd. H.K.Dravid
11/3
for Remembrancer of Legal Affairs.

U.R.to H.D.,No.2209, dated the 12th March 1942.

MRP.
4/3/56.

Office of the R.L.A.

The R.L.A. has been requested to examine whether the draft notification proposed to be issued under section 22A of the Bombay Civil Courts Act, 1869 (XIV of 1869), section 7 of the Bombay Land Revenue Code, 1879, section 5 of of the Indian Registration Act, 1908 and section 4(1)(s) of the Code of Criminal Procedure, 1898 on pages 9-10 ante and the statements on pages 11-15 and 21-23 ante forming its schedule, are in order. The proposed notification is to be issued in supersession of Government Notification, Political Department No. 10268, dated 14-12-1920 on pages 20 to 97 of Vol.VIII of Macpherson's Volumes.

2. It appears that the said G.N. P.D.,No.10268, dated 14-12-1920 was issued with reference to Government of India, Foreign Department Notification No.778-I-B, dated 9-4-1913, which has now been repealed by the Crown Representative by his notification No.203-I-B, dated 15-6-1939 as subsequently amended (vide para.3 of H.D. note on page 2 ante). Before the proposed draft notification on pages 9-10 is examined in this office, H.D. is requested to consider the following points:-

(a) The particulars in columns relating to "Railway", "State" and "district" in the Schedule to the draft notification under reference must correspond to those in similar columns in the Schedule to the notification of the Crown Representative No.203-I-B, dated 15-6-1939, as subsequently amended up-to-date.

(b) The proposed notification is concerned not merely with the formation of police stations under section 4(1)(s) of the Criminal Procedure Code, 1898, but also with the Bombay Civil Courts Act, 1869, the Bombay Land Revenue Code and the Indian Registration Act, 1908. It will therefore be necessary for H.D. (in consultation with the High Court if necessary) as regards the Bombay Civil Courts Act, 1869, and for

R.D. as regards the other Acts to examine the items in the proposed schedule with which they are concerned. In this connection, attention of the R.D. is invited to this office u.r. to R.D. No.1034, dated 4-2-1942 and G.N. R.D.No.1940/24, dated 18th February 1942 issued under section 8 of the Registration Act, 1908.

3. After the proposed draft notification is settled by H.D. and R.D. as stated in para.2 above, it may be sent along with the approved schedule for scrutiny by the R.L.A. from the legal point of view, with two copies thereof typed on half margin (vide rule 65 of the Secretariat Instructions), along with the Crown Representative's Notification F.D.No.203-I-B, dated 15-6-1939, as amended up-to-date.

Sd. H.K.Dravid

10/4

for Remembrancer of Legal Affairs.

U.R.to H.D.,No.3158, dated the 11th April 1942.

4/5/66.

Notification.

Home Department.

Bombay Castle, 1942.

The Code of Criminal Procedure, 1898.

No. .- In exercise of the powers conferred by clause (a) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898, (V of 1898) and in supersession of Government Notification in the Judicial Department, No.539 dated the 30th January 1917, the Government of Bombay is pleased to direct that the Haliyal police station of the Haliyal taluka and the Supa police station of the Supa Peth in the Kanara district, shall include the local areas respectively specified under the headings relating to them in the Schedule hereto appended.

Schedule.

Insert here A to A on pages 15-17, as amended in ink.

By order of the Governor of Bombay,

Secretary to Government.

HRP.
4/5/38.

Office of the R.L.A.

The requisite revised draft notification is sent herewith.

Sd. N.K.Dravid

16/5

for Remembrancer of Legal Affairs.

U.R.to H.D.,No.4077, dated the 16th May 1942.

MRP.
4/5/56.

NOTIFICATION.

Home Department.

Bombay Castle, 1943.

The Code of Criminal Procedure, 1898 (V of 1898).

No. In exercise of the powers conferred by clause (g) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (V of 1898) and in supersession of Government Notification in the Judicial department No.3647-A dated the 30th May 1899, as modified by the Government Notifications and erratum noted in the margin, in so far as it relates to the Police Stations of Kopargaon, Rahata Rahiri, Dolapur and Newasa in the Ahmednagar District, the Government of Bombay is pleased as:-

(1) (1) Judicial Department No.906, dated 31st January 1912 as amended by Judicial Department No.800, dated 31st January 1914.

(2) Judicial Department No.3033, dated 14th November 1913 as amended by Home Department No.S.139/10138, dated 24th July 1933 and Home Department erratum No.S.139/13160, dated 19th October 1934.

(3) Judicial Department No.799, dated 31st January 1914.

(4) Home Department No.S.35/D, dated 11th July 1922.

(5) Home Department No.S.139/19678, dated 19th January 1934.

(6) Home Department erratum No.S.139/1559, dated 13th February 1937.

(2) to declare the following to be police-stations in the said district, and

(3) to direct that these police-stations shall include the local areas specified under the headings relating to them respectively:-

(Here insert A - A on pages 61-64 ante)

By order of the Governor of Bombay,

Secretary to Government.

MRP.
4/5/56.

Office of the R.L.A.

A revised draft notification is sent herewith

2. From Government Notification, Judicial Department No.3196, dated the 7th May 1900, it is not clear whether the survey numbers specified in the draft notification on page 47 ante and the hamlets of Dargs and Takjya are within the limits of the Bijapur Town Police Station, except for the words "(the village of Mahal Bagayat)". It is, therefore, presumed that the statement at "A" on p.37 ante is correct.

3. As the area of the Mahal Bagayat, lying outside the limits of the municipal borough of Bijapur (cf. Government Notification, General Department No.7004 dated the 8th May 1923) is specified in the Schedule to the revised draft notification, it is not necessary to state in the body of the notification "but excluding the limits of the Bijapur Municipal Borough as notified in Government Resolution, General Department No.7004, dated the 8th May 1923". The revised draft notification provides accordingly, and the Home Department should verify if the presumption is correct.

Sd. H.K.Dravid
20/6.
for Remembrancer of Legal Affairs.

U.R.to H.D.,No.5819, dated the 30th June 1942.

MRP.
4/5/56.

Office of the R.L.A.

A revised draft notification is appended. Before issue the Home Department may verify whether the names of talukas given in the revised draft notification under the sub-divisions are correct.

Sd. N.K.Dravid
13/7

for Remembrancer of Legal Affairs.

U.R.to H.D.,No.8696, dated the 13th July 1962.

MRP.
1/5/63.

NOTIFICATION.

Home Department.

Bombay Castle, 1942.

Code of Criminal Procedure, Samvat 1393.

No. .-- In exercise of the powers conferred by sub-section (1) of section 8 of the Code of Criminal Procedure, 1393 (V of 1393) and in supersession of Government Notification in the Home Department, No.2515, dated the 8th April 1941, the Government of Bombay is pleased to divide the district of Dharwar, into four sub-divisions specified in column 1 of the Schedule hereto annexed and to direct that the portions comprised in these sub-divisions shall be those respectively, shown against them in column 2 of the said Schedule.

Schedule.

No. of sub-division.	Portions comprised.
1.	2.
I	The talukas of Dharwar (excluding the area comprised in the municipal borough of Dharwar), Hubli, Kalghatgi and Bankapur.
II	The talukas of Ranebennur, Hangal, Kod and Karajgi.
III	The talukas of Gadag, Navalgund and Ron and the mahals of Nargund and Mundargi.
IV	The municipal borough of Dharwar.

By order of the Governor of Bombay,

Secretary to Government.

MRP.
4/3/56.

Office of the B.L.A.

A revised draft notification is sent herewith.

The principal notificationsxx with respect to the Hubli Town, Hubli Taluka and Khandivad police stations now obtaining are --

(1) G.N. H.D. No.405/2 dated 20th July 1926
(2) G.N. H.D. No.110/2 dated 29th May 1926
(3) G.N. H.D. No.6365/2 dated 13th September 1913,

respectively, the latter notification being amended by G.N. H.D. No.3650/4 dated 16th August 1920.

The proposals now are --

(i) to split up the existing Hubli Town Police Station into Hubli and Town and Hubli Suburban Police Stations;

(ii) to transfer certain villages now under the Hubli Taluka Police Station to the two newly created police stations; and

(iii) to convert the Khandivad police station into an outpost under the Hubli Taluka Police Station.

Consequently, it necessary to supersede only the three principal notifications referred to above. The revised draft notification provides accordingly.

Ld. H.M.Dr vid,

For Remembrancer of Legal Affairs.

H.N.to H.D., No. 9490, dated 23rd November 1942.

MRP.
4/5/36.

Notification.

Home Department,

Bombay Castle, November 1913.

Code of Criminal Procedure, 1898.

1. Government Notification, Judicial Department, No. 6385 dated the 13th September 1913, in full

2. Government Notification, Home Department, No.405/2, dated the 20th July 1926, in full.

3. Government Notification, Home Department, No.110/2, dated the 23th May 1926, so far as it relates to the Hubli Police Station of the Hubli Taluka.

No. .- In exercise of the powers conferred by clause (g)of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (V of 1898), and in supersession of the notifications specified in the margin to the extent there specified, the Government of Bombay is pleased —

(a) to declare the following to be police stations in the Hubli Taluka of the Dharwar District, and

(b) to direct that those police stations shall include the local areas respectively specified under them:-

Hubli Town Police Station.

The villages of Gabbur and Ahobalapur and that portion of the Hubli Municipal Borough which lies to the —

(a) South and West of the Nalla between Unakal Reservoir and the Kharat Mills;

(b) South of a line running from Kharat Mills to Timsagar, Maratha Galli and Ganeshpeth Police Chowkeys and thence along Goods Shed Road to the Railway Line.

Note:- This area includes Krishnapur, Old Hubli, Ayodhya, Yellapur, Narayanpur, Bidarhal, Bormanur and the southern portions of New Hubli and of Mariyan Timsagar.

(Here insert B-3 on pages 13-15 of the I.D.File No.3631/4)

By order of the Governor of Bombay,

Secretary to Government.

HRP.
4/5/56.

Draft Rule.

Home Department.

Bombay Castle, November 1942.

No. .- In exercise of the powers conferred by sub-section (1) of section 174 of the Code of Criminal Procedure, 1898 (V of 1898), the Government of Bombay is pleased to make the following rule, namely:-

"No investigation shall be made by a police officer in the case of death caused by enemy action, unless the Provincial Government so directs."

By order of the Governor of Bombay,

Secretary to Government.

HRP.
4/5/43.

Office of the R.L.A.

A revised draft rule is sent herewith.

As the rule is a statutory rule it would be desirable to publish it in the Bombay Government Gazette.

Sd. P. N. Moos,
Remembrancer of Legal Affairs.

U.R.to H.D.,No.9433, dated the 24th November 1942.

MRP.
4/5/56.

Draft Circular.

It has come to the notice of the Government that there is some uncertainty about the proper procedure to be followed when complaints of offences are made to Magistrates. Government therefore thinks it desirable to issue the following instructions for guidance of all concerned.

2. If a complaint is made by a person either orally or in writing or by post or telegraph to a Magistrate, the Magistrate ought to take cognizance of the complaint whether it is a complaint of cognizable or non-cognizable offence. After the complaint is examined the Magistrate should either inquire into the case himself or after recording his reasons in writing refer it to the police for investigation. Magistrates are cautioned against referring cases for police investigation when the complaints are against the police or when the complaint expresses distruct of the police.

3. It will be noticed that the above instructions do not relate to communications which are not strictly "complaints" within the definition of section 4(1)(h) of the Code of Criminal Procedure, and which may merely constitute "information" for the purpose of section 190 (1)(c) of the Code (For the distinction between "complaint" and "information" see Imp. vs. Sheo Pratap Singh 53 All. 208).

HRP.
4/5/36.

Office of the R.L.A.

Paras (1) and (2) of the H.D.Circular:- Under section 190 (1)(a) of the Criminal Procedure Code any Presidency Magistrate, District Magistrate or Sub-Divisional Magistrate and any Magistrate empowered in that behalf may take cognizance of any offence upon receiving a complaint of facts which constitute such offence. Section 4(1)(h) of the Code defines a complaint as meaning the allegation made orally or in writing to a Magistrate with a view to his taking action under the Code, that some person whether known or unknown, has committed an offence, but does not include the report of a police officer. This section does not prescribe that the complaint should be made to the Magistrate in person and that it may not be posted to him or that if it is posted, it is not a complaint at all (23 C.L.R.285). A telegram can also amount to a complaint within the meaning of section 4(1)(h) (See Mitra's Criminal Procedure, Tenth Edn. p.24). The use of the term "may take cognizance of an offence" under section 190 does not mean that a Magistrate may refuse to take and is not bound to take cognizance of an offence on receiving a complaint of facts constituting an offence. It does not make it optional with a Magistrate to hear a complaint, but rather refers to the action of the Magistrate in taking cognizance of an offence in any of the specified courses in which the facts constituting the offence may be brought to his notice. When therefore a complaint is made to the Magistrate either in person or by post or telegram he is bound to receive the complaint and deal with it according to law (In re: Jankidas I.L.R. 12 Bom.161). Under section 200 of the Code the Magistrate taking cognizance of an offence has at once to examine the complaint on oath. If the complaint is not presented in person the Magistrate may call upon the complainant to appear before him on a date to be fixed by him and may examine him on that date (23 C.L.R. 285). After the examination of the complainant the Magistrate may under section 202 inquire into the case himself or if he is a Magistrate other than a Magistrate of the third class direct an inquiry or investigation to be made by a police officer. Under this section it is optional with the Magistrate either to inquire into the case himself or direct an

an investigation by the police. In the latter case the Magistrate has to record his reasons in writing. The position in short is this: If a complaint of an offence is received by a Magistrate either in person or by post or telegram he is bound to take cognizance of the complaint. After the complainant is examined he has the option to enquire into the case himself or direct the police to investigate into it. Para.1 of the H.D. Circular will therefore have to be amended so as to bring within its ambit complaints made in person as well as those received by post or telegram. As it is entirely within the discretion of the Magistrate to send a case to the police for investigation it would not be proper to issue executive instructions to the Magistrates that they should normally refer a cognizable case to the police for investigation, for such instructions would fetter the discretion vested by law in the Magistrate. Para.2 of the Circular will also require to be amended as it directs the Magistrate to do something which is contrary to the provisions of the law. A revised draft of the Circular explaining briefly the legal position is sent herewith. H.D. may consider the advisability of showing the circular to the High Court before issue.

Sd. P.N.Wood
23/11
Remembrancer of Legal Affairs.

U.R.to H.D.,No.9418, dated the 24th November 1942.

HMP.
4/5/56.

R.I.No.12020/30-11-42.

Submitted with reference to H.D.note dated 15-11-42 on p.2 ante.

2. By Government Notification, J.D. No.2332 dated the 29th March 1899, Kapadwanji was declared to be a police station of the Kapadwanji taluka in the Kaira District. Subsequently by Government, Notification, Judicial Department No.2457, dated the 11th March 1920 an outpost at Kathlal was added to that police station; and another police station declared at Antisar in the Kapadwanji taluka with an outpost at Lasundra. Finally by G.N. H.D. No.2207-A dated the 13th August 1922 the police station at Antisar was converted into an outpost and included within the limits of the Kapadwanji police station. Thus the Kapadwanji Police Station includes at present the three outposts of Kathlal, Antisar and Lasundra. It is now proposed to convert the outpost at Kathlal into a police station and to allot the area between the two police stations of Kapadwanji and Kathlal. The H.D. has forwarded (p.2) for this purpose a draft notification for scrutiny. A revised draft Notification is appended. If it is approved the D.S. reply may be as at A-A above.

Id. S.H.D. 3/12

S.S. Id. 4/12

D.S.

Id. H.K.D.
4/12.

P.T.O.

Office of the R.L.A.

A revised draft notification is appended.

Sd. M.K.Dravid,

for Remembrancer of Legal Affairs.

U.R.to H.D.,No.9787, dated the 7th December 1942.

MRP.
4/5/36.

NOTIFICATION.

Home Department,

Bombay Castle, December 1942.

Code of Criminal Procedure, 1898.

No. In exercise of the powers conferred by clause (g) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898(V of 1898), and in supersession of Government Notification in the Judicial Department No.8457, dated the 11th March 1920 as amended by Government Notification in the Home Department No.2307-A, dated the 19th August 1922, in so far as it relates to the Kapadvanji Police Station in the Kapadvanji taluka of the Kaira District, the Governor in Bombay is pleased --

(a) to declare the following to be police stations in the said district, and

(b) to direct that these police stations shall include the local areas respectively specified under them--

(Here enter A-A on pages 29-32 ante as slightly amended)

By order of the Governor of Bombay,

Secretary to Government.

HRP.
4/5/43.

Office of the R.L.A.

Government of India, Home Department, Notification No.F.93/IV/30-Police, dated the 18th June 1936 and Government Notification, Home Department, No.7155/2 dated the 30th June 1936 are amending notifications. The Government of India will have to amend the principal notifications No.943, dated the 19th October 1917 which is presumably still in force (vide R.L.A's U.R. to H.D. No.7156, dated 13-8-41) and the Government of Bombay will have to amend Government Notification, Home Department, No.7155/2, dated the 3rd September 1930, which appears to be the principal notification. As regards notifications mentioned at serial Nos.(3) and (4) in H.D. note on p-17 ante, the view that they require cancellation is correct, but No.(3) will have to be cancelled by the Government of India and No.(4) by the Government of Bombay.

Sd. P.N.Moos
24/12
Remembrancer of Legal Affairs.

U.R.to H.D.,No.10300, dated the 24th December 1942.

MRP.
4/5/86.